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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/664,629	09/19/2003	James N. Conway JR.	81230.95US1	5082

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EXAMINER	
WONG, ALBERT KANG	

ART UNIT	PAPER NUMBER
2612	

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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/664,629	CONWAY ET AL.	
	Examiner	Art Unit	
	ALBERT K. WONG	2612	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *01 April 2009*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-4,6,9,10,12-15,17,18,21 and 23-44* is/are pending in the application.

4a) Of the above claim(s) *34-37* is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-4,6,9,10,12-15,17,18,21, 23-33, and 38-44* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *19 September 2003* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

1. This Office action is in response to the election filed April 1, 2009. Claims 1-4, 6, 9-10, 12-15, 17-18, 21, and 23-44 are pending; claims 34-37 have been withdrawn from consideration as directed toward a non-elected invention. Applicant's election of the invention pertaining to Group I with out traverse is acknowledged. Therefore, the restriction is made final.

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claim 21 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claim 21, this claim is dependent on a cancelled claim.

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

5. Claims 1, 14, 28, 30-, 31, 33, 38-40, and 42-44 are rejected under 35 U.S.C. 102(e) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Duncan et al (6,549,133).

Regarding claim 1, the claimed function key is shown as items 4-6. Duncan teaches in col. 5, lines 40-45 that the keys are color coded to the device being controlled. The dog collars are considered appliances. Alternatively, if one does not consider a remote controlled dog collar

an appliance, it would have been obvious to use color coding to allow the user to easily identify the item being controlled with the corresponding button on the remote controller.

Regarding claim 14, this is the method equivalent to claim 1. Since the device has been shown to be anticipated or obvious, the method of making the device is similarly anticipated or made obvious.

Regarding claim 28, this is a broader version of claim 1 since color is considered a visual cue. Thus, it is similarly rejected.

Regarding claim 30, Duncan teaches color as a visual cue.

Regarding claims 31 and 33, these are the method equivalents of claims 28 and 30 and are similarly rejected.

Regarding claim 38, Duncan teaches the step of associating appliance with color cues. Inherent in the association is the presentation of the cues to the user and the setup for the controlling device to be associated with the cues and the device to be controlled. Alternatively, it would have been obvious to associate cues with the appliances since that purpose of the association is to allow the user to easily identify the cue with the particular item being controlled.

Regarding claim 39, it is conventional for programmable remote controls to receive signals from the receiver so that the transmitter and receiver are able to communicate. It would have been obvious to use conventional methods to achieve their known functionality.

Regarding claim 40, it would have been obvious to automate the process to avoid human intervention.

Regarding claim 42, Duncan teaches the use of color as a cue.

Regarding claim 43, the color on the buttons and on the collar is predetermined at the time of manufacture.

Regarding claim 44, it would have been obvious to apply a color designation on the collar to provide an association between the cue and the appliance.

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

7. Claims 2, 12-13, 15, 25, 27, 29, 32, and 41 are rejected under 35 U.S.C. 103(a) as being unpatentable over Duncan as applied to claim 1 above, and further in view of Weber (6,803,874).

Regarding claim 2, Duncan does not teach a mode key to place the controlling device into various modes and having a color associated with one of the appliances. Weber teaches a remote control device with mode keys (shown generally around label 1). Although Weber does not disclose that the mode key has the same color assigned to the appliance, it would have been obvious to associate the same color with the item controlled so that the user can easily associate the button with the item controlled as suggested by Duncan.

Regarding claim 12, where a key is dedicated to a single appliance, it would be lockable to that appliance regardless of the mode of the remote control.

Regarding claim 13, the remote control accepts commands that allow the remote control to send particular signals to control particular devices. This is accomplished when the device is programmed.

Regarding claim 15, this is the method equivalent to claim 2. Since the device has been shown to be obvious, the method of making the device is similarly made obvious.

Regarding claims 25 and 27, see rejections of claims 12 and 13 respectively, above.

Regarding claim 29, see rejection of claim 2. Color is a visual cue.

Regarding claim 32, this is the method equivalent of claim 29 and is similarly rejected.

Regarding claim 41, this limitation has been addressed in prior claims.

8. Claims 3-4, 9-10, 17-18, 23-24 and 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Duncan as applied to claim 1 above, and further in view of Duarte (6,608,271).

Regarding claim 3, Duncan does not teach that the key is illuminated in a color. Duarte teaches a remote control where the keys may be illuminated in various colors. It would have been obvious to combine the teachings since they pertain to the same field (remote controls). One of ordinary skill in the art would recognize that illumination is another way to imparting color to a key.

Regarding claim 4, see col. 3, lines 50-55.

Regarding claim 9, it would have been obvious to one of ordinary skill in the art use any conventional form of illumination. EL displays is a conventional display means with color.

Regarding claim 10, the selected color for the keys must have been determined at some point based on some criteria. It would have been obvious to allow the user to select the color to enable him to customize the device.

Regarding claims 17-18, these claims are the method equivalent of claims 3-4 and are similarly made obvious.

Regarding claim 23, see rejection of claim 10 above.

Regarding claim 24, the color of the keys in Duncan is predefined.

Regarding claim 26, in lighted keyboards, the user is typically able to control the illumination. It would have been obvious to provide this function to any illuminated keyboard. The illumination would function to display the color of the key.

9. Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Duncan as applied to claim 1 above, and further in view of Ivancic (6,798,359).

Regarding claim 6, Duncan does not teach a displayed soft key. Ivancic teaches a remote control with a displayed soft key. It would have been obvious to combine the references since they are in the same field of endeavor and to gain the advantages as shown by the references.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to ALBERT K. WONG whose telephone number is (571)272-3057. The examiner can normally be reached on M-Th.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Brian A. Zimmerman can be reached on 571-272-3059. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Albert K Wong/
Primary Examiner, Art Unit 2612

July 15, 2009